



Legislative Bulletin Addendum.....March 19, 2003

Contents:

H.R. 1104—To prevent child abduction, and for other purposes

H.R. 1104—To prevent child abduction, and for other purposes (Sensenbrenner)

Order of Business: The bill is scheduled to be considered on Wednesday, March 19, 2003, under a unanimous consent request.

Note: In the 107th Congress on October 8, 2002, a similar bill, H.R. 5422, passed the House 390-24. (Roll no. 446 <http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=446>).

Summary: *(items in bolded blue italics are new since the House passed H.R. 5422 in the 107th Congress)*

Title I:

Supervised Release Term for Sex Offenders: Amends the Federal criminal code to make the authorized term of supervised release after imprisonment for the offenses of sexual abuse, sexual exploitation of children, transportation for illegal sexual activity (generally), and sex trafficking of children “any term of years or life” ***and adds a new provision that for a felony sentence, there shall be a term of supervised release “of at least five years.”***

1st Degree Murder for Child Abuse Murders: Makes murder in the perpetration of child abuse or as part of a pattern or practice of assault or torture against children first-degree murder.

Kidnapping Penalties: Increases the penalties for violating sexual abuse statutes and directs the U.S. Sentencing Commission to increase the penalties for kidnapping. Increases the penalties against kidnapping and installs a mandatory minimum sentence of not less than 20 years.

The bill adds attempted international parental kidnapping to federal law (18 U.S.C. Section 1204) that currently covers only cases of successful international kidnapping.

Two Strikes You're Out: The bill amends the federal criminal code to provide for mandatory life imprisonment of a person convicted of a federal sex offense in which a minor is the victim (if the person has a prior sex conviction in which a minor was the victim), unless a death sentence is imposed. *According to National Journal, in the Judiciary Committee mark-up, Rep. Coble (R-NC) won an amendment by voice vote eliminating statutory rape from the life sentence penalty and limiting life terms "to more serious child sexual offenses." The amended text of the bill was not available as of press time.*

Penalties Against Sex Tourism: Amends the federal criminal code provisions prohibiting traveling in interstate or foreign commerce for the purpose of engaging in an illicit sexual act with a juvenile to prohibit: (1) traveling into the United States for such purpose; (2) traveling in foreign commerce and engaging in such sexual conduct; or (3) arranging, inducing, procuring, or facilitating such travel. *H.R. 1104 increases the penalties against sex tourism to a fine or imprisonment of not more than 30 years (the bill that passed the House in the 107th Congress had imprisonment of not more than 15 years).*

Title II:

Wiretapping in Investigations of Sex Offenses: Amends the federal criminal code to authorize the interception of wire, oral, or electronic communications in the investigation of: (1) the buying or selling of a child for sexual exploitation; (2) child pornography; (3) felony coercion and enticement to engage in prostitution or other illegal sexual activity; (4) felony transportation of minors to engage in prostitution or other illegal sexual activity (including a felony violation of sexual abuse and sexual exploitation of children provisions if the sexual activity occurred, or was intended to occur, within U.S. special maritime and territorial jurisdiction); and (5) travel with intent to engage in a sexual act with a juvenile.

Eliminates the statute of limitations for child abduction and sex crimes.

Prohibits pre-trial release for those who rape or kidnap children.

Removes the waiting period to report missing children

Requires each Federal, State, and local law enforcement agency to refer each reported case of a missing child under the age of 21 to the National Crime Information Center of the Department of Justice. Current law only requires the reporting of those under 18. *According to National Journal, in the Judiciary Committee mark-up, Rep. Sensenbrenner won on voice vote an amendment to have health authorities alerted in child abduction cases.*

Increases the authorization for the annual grant to the National Center for Missing and Exploited Children (NCMEC) to \$20 million a year from \$10 million and extends the authorization through 2005.

Authorizes COPS funding to assist States in enforcing a law which requires that a convicted sex offender register his or her address with a State or local law enforcement agency and be subject to criminal prosecution for failure to comply.

The following provisions on pornography and forensic and investigative assistance that were included in the 107th Congress bill are deleted from H.R. 1104

~~Requires the Attorney General to submit a report to Congress detailing the number of times since January 1993 that DOJ has inspected the records of any producer of pornographic material (to ensure that minors were not used in production of pornography) and to report the number of violations prosecuted as a result of those inspections.~~

~~Authorizes the Secret Service to provide forensic and investigative assistance regarding missing or exploited children to state or local law enforcement agencies or the NCMEC if they request assistance.~~

AMBER Alert Provisions:

According to National Journal, in the Judiciary Committee mark-up, an amendment offered by Rep. Coble was approved by a voice vote to clear up “some technical language problems in the AMBER provision.” The amended text of the bill was not available as of press time.

Requires the Attorney General to designate a DOJ officer as the national coordinator of the AMBER Alert communications network to (1) eliminate gaps in the network; (2) work with States to encourage development of additional elements; (3) work with States to ensure regional coordination; and (4) serve as the nationwide point of contact for the development of the network and regional coordination for alerts. The coordinator must notify and consult the FBI concerning each child abduction alert issued on the AMBER network.

The bill also establish minimum voluntary standards for the issuance of alerts and the extent of dissemination of alerts, though it specifies that the Coordinator is not to interfere with the current local or state system of voluntary coordination.

Authorizes \$20 million for grants to States to pay up to 50% of the costs for the development and enhancement of communications systems along highways for recovery of abducted children. The Secretary of Transportation would carry out the program.

Authorizes \$5 million for grants to States to pay up to 50% of the costs of activities in support of AMBER Alert communications plans, including the development of education and training programs, and law enforcement programs. The Attorney General would carry out the program.

Additional Information:

AMBER alerts are named for Amber Hagerman, a 9-year-old brutally murdered in Arlington, Texas, in 1996 and are now operating in 38 states, at least 42 counties, and multi-county regions such as the D.C. metropolitan area.

Last year, President Bush announced his own plan to improve the AMBER system by ordering the Justice Department to set national standards. He said at a White House conference on Missing Exploited and Runaway Children that he was releasing \$10 million toward the effort of improving the system through a special coordinator in the Justice Department.

Cost to Taxpayers: A CBO cost estimate is unavailable but the bill authorizes at least \$65 million in spending, subject to appropriations. The introduced version of H.R. 1104 authorizes funds in fiscal year 2003, even though that fiscal year's appropriations have already been completed.

Does the Bill Create New Federal Programs or Rules?: Yes, the bill creates new and increases already existing penalties for crimes against children. The bill also reauthorizes the grant program for the National Center for Missing and Exploited Children and creates a new AMBER alert grant program.

Committee Action: H.R. 1104 was referred to the Judiciary Committee on March 5, 2003. A subcommittee hearing was held on March 11, and the subcommittee passed the bill by voice vote on the same day. The full committee marked up the bill and passed it as amended on an 18-2 vote (Democrats Scott and Watt voting no) on March 18, 2003.

Constitutional Authority: A Judiciary Committee report citing constitutional authority is unavailable.

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